

REMARKS

Claims 1-20 and 22 have been cancelled. Claims 21 and 23-28 are pending in the application.

In the Final Office Action, the Examiner rejected claims 21 and 23-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. 2005/0033571 (*Huang*). Applicant respectfully traverses this rejection.

The Office Action rejected each of claims 21-27 on various grounds. More particularly, the Office Action rejected claims 21-27 as being anticipated under 35 U.S.C. §103(a) by *Huang*, et al (U.S. Patent Publication No. 2005/0033571). Applicant traverses these rejections.

As described in the patent application, one or more exemplary embodiments of the present invention are generally directed at using sensor(s) to detect user movement indicative of oral communication, and, in response to such movement, activate voice recognition software to process subsequent oral communications from the user. By allowing an electronic device to activate voice recognition software based on a movement indicative of oral communication, the device may be more hands free, for example, to users with disabilities or other needs for hands free voice capabilities. Notably, by activating the voice recognition software based on movement of the user (before the first vocalized sounds are processed by the voice recognition software), the voice recognition software is available to accept the user's initial incoming oral communication. This means that the initial audio communication need not be wasted (or lost) in activating the voice recognition software; rather, the initial audio communication can be captured by the software for storing or processing. Against this general backdrop, the claims are specifically discussed.

For ease of discussion, claim 21 is discussed first. Claim 21, directed to a method for interfacing with an electronic device, calls for (1) receiving a sensed signal, at an electronic device, based on sensing a physical movement of a user indicative of oral communication using a sensor located proximate to the user's temporomandibular joint, wherein the sensed signal is indicative of an initiation of an oral communication and wherein the electronic device has voice recognition software stored therein, (2) activating the voice recognition software in response to receiving the sensed signal at the electronic device, (3) receiving the oral communication, at the electronic device, subsequent to activating the voice recognition software, and (4) processing, using the voice recognition software, the received oral communication in response to receiving the sensed signal.

The Examiner's argues that *Huang* teaches the first two claimed features of claim 21 (*i.e.*, "receiving" and "activating") but admits that *Huang* does not teach the "receiving" and "processing" features. *See* Final Office Action, p.3. The Examiner asserts that the "receiving" and "processing" features would have been obvious to one of skill in the art. *See id.* The Examiner, however, does not point to any prior art reference that discloses the claimed "receiving" and "processing" features that Examiner concedes are not taught by Huang. Because the Office *cites no references* to support this "obviousness" assertion, Applicants infer that the Examiner makes this assertion based on **personal knowledge**. However, no **supporting affidavit** has been made of record. Applicants respectfully request that prior art be provided to substantiate this "obviousness" assertion or that an **affidavit** be filed in accordance with 37 C.F.R. § 1.104(d)(2), which states (emphasis added):

(2) When a rejection in an application is based on facts **within the personal knowledge** of an employee of the Office, the data shall be as specific as possible, and the reference **must be supported, when called for by the applicant, by the**

affidavit of such employee, and such affidavit shall be subject to contradiction or explanation by the affidavits of the applicant and other persons.

Consequently, Applicant respectfully and seasonably requests the Office to either (1) **cite a reference** in support of this position, or (2) **provide a Rule 104(d)(2) affidavit** from the Examiner supporting any **facts within the personal knowledge of the Examiner**, as also set forth in M.P.E.P. § 2144.03.

Further, the Examiner's reliance on Huang is misplaced because *Huang* does not teach one or more of the claimed features. For example, *Huang* at least does not teach receiving the oral communication subsequent to activating the voice recognition software. The term "the oral communication" derives its antecedent basis from the first element of claim 21: "receiving a sensed signal, at an electronic device, based on sensing a physical movement of a user indicative of oral communication using a sensor...." Thus, read in context, the term "oral communication" of claim 21 refers to the communication associated with the physical movement that resulted in the generation of the sensed signal from the sensor. In other words, it refers to that "initial communication" associated with the physical movement on which the sensed signal is based. Thus, when claim 21 calls for receiving "the oral communication" subsequent to activating the voice recognition software, the claim is referring to that initial communication that is associated with the physical movement upon which the sensed signal is based. Unlike claim 21, in *Huang*, the sensed signal is not received subsequent to the activation of the voice recognition software. See, e.g., *Huang*, Fig. 4. In fact, *Huang* teaches that a speech signal triggers an output signal, which in turn is provided to the computer to activate voice recognition software. Thus, *Huang* teaches that the speech signal itself initiates the voice recognition software, which means that *Huang* does not teach that this speech signal is received subsequent to activating the voice recognition software, as called for in claim 21.

Claim 21 also calls for receiving a sensed signal, at an electronic device, wherein the electronic device has voice recognition software stored therein. The Examiner argues that *Huang* teaches a physical movement sensor whose output is sent to a speech detector (the claimed “electronic device,” according to the Examiner). *See* Office Action, p.2; *see also* *Huang* ¶¶[0008]-[0011]. However, the speech detector does not contain voice recognition software as called for in claim 21.

Huang discloses a computer that is coupled to the speech detector, where the computer receives an output signal from the speech detector. *See* *Huang* ¶¶[0008]-[0011]. *Huang* teaches that the computer contains a “speech recognition engine.” To the extent the Examiner were to argue that this computer corresponds to the “electronic device” of claim 21, the Examiner’s argument would still be incorrect. This is because the computer in *Huang* does not receive the physical sensor indication, rather it receives the speech detector output signal. The speech detector described in *Huang* generates, based on a microphone signal and a physical sensor indication, an output signal, which is then provided to the computer. In other words, the computer receives the output signal of the speech detector, not a signal from the physical movement sensor. In contrast, claim 21 calls for receiving a sensed signal (that is, the signal sensed by a sensor checking for physical movement). Thus, *Huang* does not teach “receiving a sensed signal” at the electronic device, as called for by claim 21.

Because *Huang* does not teach the claimed feature of receiving a sensed signal at the electronic device, it also does not, and cannot, teach the next claimed feature of “activating the voice recognition software *in response to receiving the sensed signal at the electronic device.*” For this additional reason, *Huang* fails to anticipate claim 21.

Accordingly, for reasons stated above, independent claim 21 is allowable. Moreover, claims depending from claim 21 are also allowable for the same reasons. Additionally, independent claim 28 is allowable for similar reasons claim 21 is allowable.

Applicants respectfully assert that in light of the amendments and arguments provided above, all claims pending in the present application are now allowable and, therefore, request that a Notice of Allowance be issued. Reconsideration of the present application is respectfully requested.

If for any reason the Examiner finds the application other than in condition for allowance, the Examiner is respectfully requested to call the undersigned attorney at the Houston, Texas telephone number (713) 934-4064 to discuss the steps necessary for placing the application in condition for allowance.

Respectfully submitted,

WILLIAMS, MORGAN & AMERSON, P.C.
CUSTOMER NO. 23720

Date: January 16, 2009

By: /Ruben S. Bains/
Ruben S. Bains, Reg. No. 46,532
10333 Richmond, Suite 1100
Houston, Texas 77042
(713) 934-4064
(713) 934-7011 (facsimile)
ATTORNEY FOR APPLICANT(S)